

HOUSE BILL 1476

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HB 865/03 – ENV

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By: **Prince George’s County Delegation and Montgomery County Delegation**
Introduced and read first time: March 1, 2010
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George’s County – Maryland–National Capital Park and Planning**
3 **Commission – Commissioners**

4 **PG/MC 119–10**

5 FOR the purpose of altering the date on which a commissioner of the
6 Maryland–National Capital Park and Planning Commission from Prince
7 George’s County is appointed; applying certain provisions regarding conflicts of
8 interest to commissioners appointed from Prince George’s County; providing for
9 the termination of the terms of certain commissioners of the Maryland–National
10 Capital Park and Planning Commission; providing for the appointment and
11 terms of office of certain commissioners of the Maryland–National Capital Park
12 and Planning Commission; and generally relating to commissioners of the
13 Maryland–National Capital Park and Planning Commission appointed from
14 Prince George’s County.

15 BY repealing and reenacting, with amendments,
16 Article 28 – Maryland–National Capital Park and Planning Commission
17 Section 2–102 and 2–115
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2009 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article 28 – Maryland–National Capital Park and Planning Commission**

23 2–102.

24 The term of office of each member of the Commission is four years.
25 [Appointments] **IN MONTGOMERY COUNTY, APPOINTMENTS** shall be made on or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 before June 15 of the year in which any appointment is to be made, and terms of office
2 shall begin as of that [date and if] **DATE. IN PRINCE GEORGE'S COUNTY,**
3 **APPOINTMENTS SHALL BE MADE ON OR BEFORE FEBRUARY 1 OF THE YEAR IN**
4 **WHICH ANY APPOINTMENT IS TO BE MADE, AND TERMS OF OFFICE SHALL BEGIN**
5 **AS OF THAT DATE. IF** any appointment is not made as provided in this section a
6 vacancy exists which shall be filled as provided in this article for the filling of
7 vacancies on the Commission. The members of the Commission in office immediately
8 prior to July 1, 1975 shall remain in office under the provision of this article for the
9 remainder of the terms for which they were appointed. Members may continue to
10 serve until their successors are appointed and have qualified. In Montgomery County
11 a person may not be appointed for 3 consecutive, full terms. Those members who have
12 served 2 consecutive terms may complete their current terms.

13 2-115.

14 (a) **THIS SECTION APPLIES TO COMMISSIONERS APPOINTED FROM**
15 **MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.**

16 (B) No commissioner may:

17 (1) Decide or participate in a decision in which the commissioner has a
18 financial interest, whether as owner, member, partner, officer, employee, stockholder,
19 or other participant of or in any private business or professional enterprise, that will
20 be affected by such decision, nor may a commissioner knowingly participate in a
21 decision affecting the financial interest of a person related to the commissioner or the
22 commissioner's spouse, father, mother, brother, sister, or child, jointly or severally.
23 This paragraph may not be construed to prohibit a commissioner from having or
24 holding private investment, business, or professional interests, but shall be construed
25 to apply when these interests are or reasonably may be in conflict with the proper
26 performance of duty by the commissioner. These interests shall be presumed to be in
27 conflict with the proper performance of duty by the commissioner when the
28 commissioner or the commissioner's spouse, father, mother, brother, sister or child,
29 jointly or severally, owns a total of more than three percent of the invested capital or
30 capital stock of any groups, firms, corporations, or associations involved in the decision
31 being made by the commissioner or the commission or planning board on which the
32 commissioner serves or receives a total combined compensation of more than \$5,000
33 per year from any individual, groups, firms, corporations, or associations involved in
34 the decision being made by the commissioner or the commission or planning board on
35 which the commissioner serves. The prohibition does not apply to or include an
36 interest or investment in land geographically remote from the land involved in the
37 decision, the ownership of a recorded single family lot on which the member actually
38 resides, or a possibility of reverter, a mortgage, or other security interest in which the
39 real property in interest is not as otherwise defined in this paragraph.

40 (2) Act as broker, agent, attorney, representative, or employee of any
41 person in the person's business dealings with Montgomery County, Prince George's
42 County, the Maryland-National Capital Park and Planning Commission or

1 Washington Suburban Sanitary Commission nor may the commissioners decide or
2 participate in a decision on any matter in which a close business or professional
3 associate has acted in any of these capacities or represented private interests before
4 either county or the above commissions. The commissioners may not represent private
5 interest or appear in a position of advocacy, other than in the performance of their
6 official duties, either in person or by associate, in any matter or proceeding pending
7 before the Montgomery County Council, the Prince George's County Council,
8 Maryland–National Capital Park and Planning Commission, Washington Suburban
9 Sanitary Commission, the Prince George's County Board of Appeals, or the
10 Montgomery County Board of Appeals.

11 (3) Solicit or accept any gift, favor, loan, service, promise, employment
12 or thing which might influence or tend to influence the proper performance of the
13 commissioner's duty.

14 (4) Disclose any confidential information concerning the property,
15 management, or affairs of either county, Maryland–National Capital Park and
16 Planning Commission or Washington Suburban Sanitary Commission or use such
17 information to advance the financial or other private interests of the commissioner or
18 other persons.

19 (5) Attempt to influence for a purpose contrary to the provisions of this
20 section any other county or State official in the conduct of the other official's duties.

21 [(b)] (C) No part of this section may be construed to prohibit a
22 commissioner from appearing in the pursuit of the commissioner's private interests as
23 a citizen; or from accepting or receiving any benefit by operation of law, or prosecuting
24 or pursuing any claim, right, privilege, or remedy which is the commissioner's by
25 operation of law.

26 [(c)] (D) When a commissioner has any interest as described in this section
27 which is or reasonably may be incompatible with or in conflict with any of the
28 commissioner's official duties or acts, the commissioner shall disclose the interest in a
29 regular public meeting of the commission or the planning boards and the disclosure
30 shall appear in the minutes, and the commissioner is disqualified and may not
31 participate in the decision or act affected thereby.

32 [(d)] (E) Any commissioner convicted of violating subsection [(a)] (B) of this
33 section is guilty of a misdemeanor, and shall be punishable by a fine of not more than
34 \$1,000 or six months in jail, or both fine and imprisonment, or by suspension from the
35 commission or employment for not more than six months, or by outright forfeiture and
36 removal from office, or by any combination of these, as in the discretion of the court is
37 fit and proper.

38 [(e)] (F) The provisions of this section are severable and are as provided in
39 Article 1, § 23 of the Code.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding Article
2 28, § 2–102 of the Annotated Code of Maryland, the terms of each of the
3 commissioners of the Maryland–National Capital Park and Planning Commission
4 appointed from Prince George’s County serving on January 31, 2011, or their
5 successors selected to fill a vacancy, shall terminate on February 1, 2011. The terms
6 of the commissioners appointed from Prince George’s County whose term of office
7 begins on February 1, 2011, shall terminate on January 31, 2015, or when their
8 successors are appointed and qualify. Beginning with the term of office of the
9 commissioners appointed from Prince George’s County in 2015, the appointment of the
10 commissioners shall conform to the provisions of Article 28, § 2–102 of the Annotated
11 Code as enacted by this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 June 1, 2010.